Sectt. II—48—21,640-19-1-17.

Pub I (1918) Department.

Mis SERIES.

G.O. No. 194 D

DATED 4-6-18

[signature]

[Despatch Abstract.]

Tenkarai Tank Suit. Recording B.P. Submitting copy of appeal memo in A.S No 126/8 on the file of Dt Judge Madura etc ———

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
GO	158 d	Ins	8-5-18				

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
GO	144 d	Ins	13-5-19				

CP 22800/19

main file G.O. 9 8-5-18

1

C.F.—30.

7852/16

PUBLIC WORKS - **DEPARTMENT.** (IRRIGATION)

CURRENT No.

PUBLIC WORKS (IRRIGATION) MADRAS 16 MAY 1918 I.R. GOVERNMENT OF MADRAS

Received 3036/18-A 191 . *Registered* 191 .

Subject.

Tenkarai Tank suit.

Submitting copy of the appeal memo. in A.S. No. 126/18 on the file of the District Judge, Madura, regarding -----------

--:O:--

ENCLOSURES.
No.
Spare copies

Reference **No.** 4326-16-11

Station Madras, *Dated the* 14th May 1918.

From

H.R. Pate Esquire, I.C.S.,
Secretary,
The Board of Revenue, Land Revenue. ~~Revenue Settlement, etc.~~ ~~Separate Revenue.~~

The Hon'ble Mr. A. Butterworth, C.S.I., I.C.S.,
Commissioner of Land Revenue.

~~Resolution~~
~~Reference.~~

Read the following letter from G.F. Paddison Esquire, M.A., I.C.S., Collector of Madura, to the Secretary to the Commissioners of Land Revenue, Madras, R.O.C. No. 3691/G1/17., dated the 9th May 1918:-

M.S. 7 C.F. of flag Y

In continuation of my R.O.C. No. 3691/G1/17., dated the 27th March 1918, I have the honour to forward herewith a copy of the appeal memo in A.S. No. 126/18

on the file of the District Judge, Madura preferred against the order in O.S. No. 94/15 on the file of the 1st Additional District Munsif, Madura, and to state that the Government Pleader, Madura has been instructed to oppose the appeal on the grounds set forth in the judgment of the lower court.

--:0:--

R e f e r e n c e:-

Submitted to Government in continuation of Board's Reference No. 4326-16-10, dated the 15th April 1918.

S e c r e t a r y.

To

The Secretary to Government, Public Works Department (Irrigation) with copy of the appeal memo.

K.C.K. 15/5.

In the court of the Dt. Judge,-Madura.

A.S. No. 126 of 1918.

Between:- Aladi Servai------------- Appellant Plaintiff.

And:- The Secretary of State ~~ax~~ for India in Council through the Collector of Madura------Respondent (Defendant)

On appeal from the decree of the First Additional District Munsif of Madura in

O.S. No. 94 of 15.

Between Aladi Servai Plaintiff.

And

The Secretary of State for India in Council (through the Collector Of Madura.) Defendant.

The appellant abovenamed begs to prefer this memorandum of appeal under Section 96 and Order 41 Rule 1 of the Civil Procedure Code against the decree of the First Additional District Munsif of Madura ~~xxxxxx~~ dated 14-9-17 in O.S.No. 94 of 15 on the file of the First Additional District Munsif's Court Madura for the following among other grounds.

I. Appellant. Aladi Servai, son of Sannasi Servai residing at Thenkarai, Nilakotta Taluk, aged about 32. ~~The~~

The address for the service of all processes and notices to the appellant is as stated above.

II. Respondent. The Secretary of State for India in Council (through the Collector of Madura.)

Grounds of Appeal.

III. The decree and judgment of the Lower Court are contrary to law and against the ~~weitht~~ weight of evidence and the probabilities of the case.

2. The Lower Court ought to have decreed the suit in favour of the plaintiff.

3. The Lower Court ought to have found, that all the Karuvela trees on the Tenkarai tank were sold in the public auction.

4. The Lower Court ought to have found that there was no announcement by the Overseer before the auction sale, that the sale was restricted to the trees standing on the bund slopes and 30 feet from either toe of the ~~bund slopes and 30 feet from either the~~ bund between Pathamadai and R.F. (Right flank).

5. The Lower court ought to have found that there was a definite announcement by the Overseer before the sale that all the trees on the Tenkarai tank were sold.

6. The Lower Court ought to have found, that Exhibits A, A1, B and C prove beyond doubt, that all the trees on the Tenkarai tank were sold.

7. The Lower Court failed to see, that even in Exhibit II on which the defendant relies, there is nothing limiting the locality of trees to 30 feet from either toe of the bund.

8. The Lower Court failed to see that the G.O. No. 469 I. dated 24-11-09 which was shown to the Lower Court by the defendant and on which the defendant relies clearly describes a tank bund as extending up to the Patta lands which fact has been admitted by D.W.2 in his evidence.

9. The Lower Court was wrong in thinking that there was no need for the Overseer (D.W.2) to make any announcement before the sale in as much as D.W.2 himself has stated in his evidence that it is usual to make such announcements.

10 The Lower Court ought to have found that the signature of the plaintiff was taken on a blank sheet and the plaintiff had no knowledge as to the contents of the earlier portions of Exhibit II.

11. The Lower Court ought to have found that the overseer's (D.W.2's). statement that his impression was that the space

beyond 30 feet from the toe of the bund belonged to the Forest Department is a lie especially considering the fact that the D.W.2 was a responsible Government officer fully conversant with G.O. No. 469.I of 24-11-09.

12. The Lower Court ought to have found that the charge against the plaintiff by the Forest Department was withdrawn because the plaintiff had not committed any offence as regards any department.

13. The Lower Court erred in attributing reasons for the conduct of Defence witnesses without any evidence for the same.

14. The Lower Court ought to have found that the contract has been reduced to writing and no oral evidence can be let into add to or alter or vary the terms of contradt as contained in Exhibits A, A1, B, B1 and C.

15. The Lower Court erred in thinking that in the case of sales by Government also the contract is complete when the hammer falls.

16. The Lower court failed to see that in case of Government sales, the sale has to be confirmed by the District officers and in ~~thais~~ this case the sale was complete only when the permit Exhibit C was given to plaintiff indicating thereby that the sale has been confirmed by the Executive Engineer.

17. The Lower Court ~~failsdxtoxseexthatxthexpxxfailsdxtx~~ has not correctly appreciated the oral evidence in the case.

18. The Lower Court failed to see that the plaintiffs witnesses are disinterested persons having nothing in common with one another.

19. The Lower Court failed to see that the Defence witnesses except D.W.6 are servants of the defendant and interested in favour of the defendant.

20. The Lower Court ought not to have taken into consideration the evidence of D W 1 in as much as no notice was given to plaintiff

VALUATION OF APPEAL.

Particulars of claim.	Amount claimed.	Amount ~~Clai~~ xxx Decreed.	Amount appealed against.
Suit is to recover Rs 1479-8-0 from the defendant as detailed below:- a. To allow the plaintiff to cut and take away trees standing in the Tenkarai tank or to direct the defendant to pay Rs550/) their value with interest. b. To recover Rs550/- being the value of the trees cut and carried away by Kuppaperumal thevan and others with interest. c. To recover Rs150 /- being the cost of the criminal case incurred by the plaintiff with interest. d. To recover Rs40/- being the deposit money paid by plaintiff with interest.	1479-8-0	Nil.	1479-8-0

(True Copy)

Madura Collector's Office.

Dated the 8th May 1918.

for Collector.

G.M. 10-5-18.

P.W.D.Irrigation.

Subject.- Tenkarai Tank suit.
Appeal on the file of the Dt.Judge,Madura re:---

C.No.3036/18) From the Board of Rev.(L.R.)No.4326/16-11,d/14-5-1918.

D.I.

flag U

L.G. [illegible] 1588/8.5.18 y.
flag Y

In G.O.No.658-I,dated 12-12-1914 the defence of the ~~[illegible]~~ Tenkarai tank suit on the file of the District Munsiff's Court,Madura, (was sanctioned. Con 1.10.1917) the Board reported that the case was dismissed with costs and with its Ref.No.4326/16-10 dated 15-4-1918 it forwarded copies of the judgment and the decree in the suit.

pp 1-2 c.f.

2. The Board now forwards copy of a letter from the Collector of Madura who states that the plaintiff has preferred an appeal against the District Munsiff's judgment.

The Collector has instructed the Govt. Pleader,Madura to oppose the appeal on the grounds set forth in the -- Lower Court's judgment. No action is necessary beyond recording the B.P. A draft order is put up and may be sent to Revenue for perusal before issue.

[illegible] 20.5.18 PH 21.5.18

[signature] 23/5/18

WH 23.5.18

UNDER SECY. TO GOVT. ...1918 REVENUE DEPT.

P. W. D. IRRIGATION.
U.O. No. 3036/18-Afl
Dated 23.5.1918

Revenue U.O.

Revenue Department.

Rev. U.O. 959 B
25-5-18

Dept.

[illegible] 25.5.18

To Under Secretary.

It is submitted that the file may be returned to P.W.D.(I) after perusal.

Rev. U.O. No. U.O 959 B/18-1
Dp 30-5-18

[illegible] 29.5.18
[illegible] 29.5.18

[illegible] U.O.

[signature] 30/5/18

PWD (G)

Under Secy.

The draft order may now issue.

[signature]
30/5/18

Issue
[initials] 30/5/18

PUBLIC WORKS DE[PARTMENT]
OOTACAMUND
30 MAY 1918
No. 3036/18-A
GOVERNMENT OF MADRAS

Sectt II—10 (a) Tenkasi tank suit

P. W. (I) DEPARTMENT.

Recording B.P. submitting copy of the appeal memo in A.S. No 126/18 on the file of the Dt. Judge, Madura regarding—

READ AGAIN G.O. No. 658 I, dated 12 12 1914.
" " " " 355 I, " 17 8 1916.
" 158 I dy 17. 5 1918

READ ALSO:—

C. No. 3036/18 From the Board of Rev (LR) Ref, No. 4326/16-11 dated 14 5 1918.

" " ......, " " ......, " ......, " ......19 .

" " ......, " " ......, " ......, " ......19 .

ORDER. No. 194 I, dated 4—6—1918.

Mis

Recorded.

[illegible] 20.5.18

[illegible] 23/5/18

[illegible] 23.5.18

To the Board of Rev (LR)
" Supg. Engineer 6th circle

DESPATCHED
Date 7.6.18
Enclos. ......

CS
[illegible] 4.6.18